

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

STIEFEL LABORATORIES, INC.,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO.
	)	1:08-CV-3773
v.	)	
	)	JURY TRIAL DEMANDED
BROOKSTONE	)	
PHARMACEUTICALS, L.L.C.	)	
	)	
	)	
Defendant.	)	
_____	)	

**DEFENDANT BROOKSTONE PHARMACEUTICALS, LLC'S**  
**MOTION TO DISMISS**

Stiefel Laboratories, Inc. has presented a Complaint that is devoid of any justiciable issue or allegation sufficient to support its demands for damages and affirmative injunctive relief. Under Fed. R. Civ. Proc. 12(b)(6), it is appropriate to dismiss a complaint for a failure to state a claim when it does nothing more than articulate "labels and conclusions" and does not "'provide the 'grounds'" for "'entitle(ment) to relief.'" Anderson v. Vanguard Car Rental USA, Inc., 2008 WL

5381413 (11th Cir. 2008). In short, "a formulaic recitation of a cause of action's elements will not do." Id.

Stiefel is using its Complaint to shut down legitimate, lawful competition. Its Complaint makes that abundantly clear, and fails to articulate a single, legitimate ground from recovery.

WHEREFORE, Brookstone Pharmaceuticals, LLC, respectfully requests that the Court dismiss Stiefel Laboratories, Inc.'s Complaint, with prejudice.

Respectfully submitted January 6, 2009.

**THE WILSON LAW FIRM, P.C.**

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**CERTIFICATE OF SERVICE AND COMPLIANCE**

I hereby certify that the foregoing has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(C), Northern District of Georgia, specifically Courier New, 14 point. I further certify that on the below date, I electronically filed the foregoing with the Clerk of Court for the United States District Court for the Northern District of Georgia using the CM/ECF system, which will automatically send notification of such filing and electronic copy to:

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